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Message Text

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ACTION SCI-06

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C O N F I D E N T I A L IAEA VIENNA 10216

E. O. 11652: GDS
TAGS: PARM, US, IAEA, GW
SUBJ: US VOLUNTARY SAFEGUARDS OFFER: FRG VIEWS

REF: IAEA VIENNA 10076

SUMMARY: IN PAPER GIVEN US MISSION AFTER TALKS WITH FRG DELEGATION, GERMANS MAKE FOR REQUESTS CONCERNING US-IAEA SAFEGUARDS NEGOTIATIONS THAT WERE NOT MADE IN NOVEMBER 30 MEETING: THAT AT ALL TIMES "CERTAIN NUMBER" OF US NUCLEAR FACILITIES WHICH DO NOT RPT NOT MEET TIMBS CRITERIA BE UNDER IAEA SAFEGUARDS; THAT FACILITIES BE ROTATED BETWEEN CATEGORY ONE AND TWO; THAT FRG (NO MENTION OF OTHER COUNTRIES) BE CONSULTED BY IAEA ON SELECTION OF CATEGORY ONE; AND THAT SHOULD IAEA UNCOVER ANY IRREGULARITY IN CATEGORY TWO FACILITY IT BE IMMEDIATELY SELECTED FOR CATEGORY ONE. ACTIONREQUESTED: INSTRUCTIONS FOR US REPLY OT FRG.

1. MISSION RECEIVED DECEMBER 7 FROM FRG RESREP UNGERER PAPER INTITLED "OBSERVATIONS OF FRG DELEGATION AS TO IMPLEMENTATION OF US OFFER TO SUBMIT US NUCLEAR ACTIVITIES TO IAEA SAFEGUARDS" (COPIES POUCHED STATE, AEC AND BONN). ALTHOUGH UNGERER'S COVERING NOTE SAYS HE ATTEMPTED SUMMARIZE CONFIDENTIAL

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OPINIONS AND SUGGESTIONS MADE BY FRG AT NOVEMBER 30 MEETING (REFTEL),

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FOUR MAJOR POINTS IN PAPER WERE NOT RAISED AT THAT MEETING. ONE OR TWO WERE MENTIONED IN INFORMAL EARLIER DISCUSSIONS WITH UNGERER, BUT THIS IS FIRST TIME THEY HAVE BEEN PUT TO US AS FORMAL FRG POSITIONS.

2. NEW POINTS ARE:

(A) THAT SUBSIDIARY ARRANGEMENTS (SA) TO US-IAEA SAFEGUARDS AGREEMENT INCLUDE AT ANY GIVEN TIME QTE A CERTAIN NUMBER OF FACILITIES OTHER THAN THOSE UQUTE WHICH MEET TIMS PAPER CRITERIA. AS REPORTED REFTEL, FRG VIEW IS THAT ALL TIMBS CRITERIA FACILITIES SHOULD BE IN CATEGORY ONE (AND THEREFORE IN SUBSIDIARY ARRANGEMENTS) AT ALL TIMES. FRG PAPER DOES NOT ATTEMPT DEFINE OR DESCRIBE THESE OTHER FACILITIES, BUT AS REPORTED REFTEL FRG HAS BEEN ASKED TELL US WHAT FACILITIES IT WOULD SUGGEST FOR INITIAL INCLUSION IN CATEGORY ONE.

(B) THAT QTE THE SUBSIDIARY ARRANGEMENTS INCLUDE UQTE ROTATION BETWEEN FACILITIES INITIALLY SELECTED FOR CATEGORY ONE AND THOSE INITIALLY INCLUDED IN CATEGORY TWO. FRG LANGUAGE IS UNCLEAR, BUT IMPLIES THAT SOME PART OF AGREEMENT OR SA SHOULD MAKE MANDATORY PROVISION FOR ROTATION, PRESUMABLY ON SOME SPECIFIED PERIODICITY.

(C) THAT "FACILITIES TO BE INCLUDED IN SA WILL BE SELECTED BY AGENCY AFTER CONSULTATION WITH FRG." WHILE WE HAD ALWAYS COMTEMPLATED CONSULTATIONS BETWEE SECRETARIAT AND SIGNATORIES OF TIMBS PAPER (FRG, ITALY, JAPAN AND AUSTRALIA) AND POSSIBLY OTHERS, INTERESTING POINT HERE IS OMISSION OF REFERENCE TO ANY COUNTRY (OR EC) OTHER THAN FRG.

(D) THAT ANY US FACILITY QTE FOUND IRREGULAR WITH REGARD TO DESIGN INFORMATION, RECORDS AND REPORTS WILL BE IMMEDIATELY SELECTED FOR INCLUSION IN SA SO THAT FULL SAFEGUARDS CAN BE APPLIED UNQTE. THIS HAD BEEN PROPOSED BY UNGERER IN INFORMAL DISCUSSIONS TO MEET WHAT HE REGARDED AS LACK OF ANY SANCTION IN DRAFT PROTOCOL FOR AGENCY TO APPLY AGAINST CATEGORY TWO FACILITY OPERATORS WHO DID NOT FULLY COMPLY WITH PROTOCOL REQUIREMENTS. IN NOVEMBER 30 MEETING WE PROPOSED TO FRG, AD REFERENDUM, ADDING TO PROTOCOL NEW ARTICLE 21 (TEXT SENT SEPTEL) WHICH PROVIDED WHAT WE BELIEVE TO BE ADEQUATE AND APPROPRIATE MEASURES FOR IAEA TO TAKE IN SUCH SITUATION.

3. COMMENT: RESPONSE TO POINT (A) NOT BECESSARY AT THIS TIME,
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SINCE WE ARE AWAITING FRG SUGGESTIONS RE INITIAL CATEGORY ONE FACILITIES. WITH REGARD TO (B), BE RECOMMEND WE OPPOSE INCLUSION IN AGREEMENT OF ANY PROVISIONS REGARDING ROTATION BETWEEN CATEGORIES. THIS IS IN KEEPING WITH OUR BASIC APPROACH, WHICH IS TO GIVE AGENCY MAXIMUM FLEXIBILITY, BARRING ONLY DISCRIMINATION BETWEEN US COMMERCIAL FIRMS. THERE IS NO REASON WHY AGENCY MUST BE REQUIRED EVENTUALLY TO PUT EVERY SINGLE US POWER REACTOR IN SA. WE RECOMMEND WE BE AUTHORIZED TELL

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FRG, IN WRITING IF THEY WISH, THAT AGENCY WILL HAVE AUTHORITY TO ROTATE AND US WILL NOT OPPOSE ANY REASONABLE AND NON-DISCRIMINATORY SCHEME IT MAY DIVISE FOR MOVEMENT BACK AND FORTH BETWEEN CATEGORIES.

4. WE RECOMMEND WE POINT OUT THAT (C) HAS BEEN OUR LONG-STANDING POLICY, BUT THAT OF COURSE OTHER INTERESRED COUNTRIES WILL HAVE TO BE CONSULTED AS WELL AS FRG. WITH REGARD TO(D), WE ARE SENDING BY SEPTEL COUNTER-PROPOSAL WE HAVE DESCRIBED TO FRG ORALLY, AND WE RECOMMEND WE BE AUTHORIZED TELL UNGERER US PREFERS THAT APPROACH RATHER THAN MANDATORY MOVEMENT TO CATEGORY ONE, WHICH MIGHT NOT BE APPROPRIATE REMEDY IN ALL CASES AND WHICH AGAIN REDUCES SECRETARIAT'S FLEXIBILITY IN ADMINISTERING AGREEMENT.

5. INSTRUCTIONS REQUESTED. PORTER

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